

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Probate Act of 1975 is amended by changing
5 Sections 11a-5, 11a-15, and 23-2 and by adding Section 11a-26
6 as follows:

7 (755 ILCS 5/11a-5) (from Ch. 110 1/2, par. 11a-5)

8 Sec. 11a-5. Who may act as guardian.

9 (a) A person is qualified to act as guardian of the person
10 and as guardian of the estate of a person with a disability if
11 the court finds that the proposed guardian is capable of
12 providing an active and suitable program of guardianship for
13 the person with a disability and that the proposed guardian:

14 (1) has attained the age of 18 years;

15 (2) is a resident of the United States;

16 (3) is not of unsound mind;

17 (4) is not an adjudged person with a disability as
18 defined in this Act; and

19 (5) has not been convicted of a felony, unless the
20 court finds appointment of the person convicted of a
21 felony to be in the best interests of the person with a
22 disability, and as part of the best interests
23 determination, the court has considered the nature of the

1 offense, the date of offense, and the evidence of the
2 proposed guardian's rehabilitation. No person shall be
3 appointed who has been convicted of a felony involving
4 harm or threat to a minor or an elderly person or a person
5 with a disability, including a felony sexual offense.

6 (b) Any public agency, private professional guardian as
7 defined in Section 11a-26, or not-for-profit corporation found
8 capable by the court of providing an active and suitable
9 program of guardianship for the person with a disability,
10 taking into consideration the nature of such person's
11 disability and the nature of such organization's services, may
12 be appointed guardian of the person or of the estate, or both,
13 of the person with a disability. The court shall not appoint as
14 guardian an agency or employee of an agency that is directly
15 providing residential services to the ward. One person or
16 agency may be appointed guardian of the person and another
17 person or agency appointed guardian of the estate.

18 (b-5)(1) The court may appoint separate individuals or
19 entities that are qualified to act as guardian under
20 subsection (b) or (c) to act as the guardian of the person and
21 the guardian of the estate of a person with a disability if the
22 court finds it is in the best interests of the person with a
23 disability that separate guardians be appointed. The court
24 shall not appoint a separate person or entity to act as
25 guardian of the person or guardian of the estate with a public
26 guardian or the Office of State Guardian unless the public

1 guardian or the Office of State Guardian agrees to such an
2 appointment.

3 (2) The court may appoint co-guardians to act as guardian
4 of the person, guardian of the estate, or both the guardian of
5 the person and the guardian of the estate if the court finds it
6 is in the best interests of the person with a disability. When
7 considering appointing co-guardians, the court shall consider
8 the proposed co-guardians' history of cooperating and working
9 together on behalf of the person with a disability. The court
10 shall appoint only co-guardians who agree to serve together.
11 The court shall not appoint a public guardian or the Office of
12 State Guardian as a co-guardian for a person with a
13 disability.

14 (c) Any corporation qualified to accept and execute trusts
15 in this State may be appointed guardian or limited guardian of
16 the estate of a person with a disability.

17 (Source: P.A. 102-72, eff. 1-1-22.)

18 (755 ILCS 5/11a-15) (from Ch. 110 1/2, par. 11a-15)

19 Sec. 11a-15. Successor guardian.

20 (a) Upon the death, incapacity, resignation, or removal of
21 a guardian of the estate or person of a living ward, the court
22 shall appoint a successor guardian or terminate the
23 adjudication of disability. The powers and duties of the
24 successor guardian shall be the same as those of the
25 predecessor guardian unless otherwise modified.

1 **(b)** Notice of the time and place of the hearing on a
2 petition for the appointment of a successor guardian shall be
3 given not less than 3 days before the hearing for a successor
4 to a temporary guardian and not less than 14 days before the
5 hearing for a successor to a limited or plenary guardian. The
6 notice shall be by mail or in person to the alleged person with
7 a disability, to the proposed successor guardian, and to those
8 persons whose names and addresses are listed in the petition
9 for adjudication of disability and appointment of a guardian
10 under Section 11a-8. The court, upon a finding of good cause,
11 may waive the notice requirement under this Section.

12 **(c)** Notwithstanding the notice requirement in subsection
13 (b), if a private professional guardian is serving as a
14 limited or plenary guardian of a person with a disability and
15 intends to name the Office of State Guardian or public
16 guardian as successor, notice shall be provided to the court
17 and the Office of State Guardian or a public guardian not less
18 than 60 days before the hearing for a successor to a limited or
19 plenary guardian. If the assets of the person with a
20 disability at the time of the appointment of the limited or
21 plenary guardian do not exceed the estimated amount necessary
22 for funding of the needs of the person with a disability for a
23 period of 60 days, this subsection does not apply. This
24 subsection does not apply to temporary guardians or when
25 guardianship services are paid for by a hospital licensed
26 under the Hospital Licensing Act or the University of Illinois

1 Hospital Act.

2 (Source: P.A. 103-740, eff. 1-1-25; 104-417, eff. 8-15-25.)

3 (755 ILCS 5/11a-26 new)

4 Sec. 11a-26. Private professional guardian.

5 (a) As used in this Act, "private professional guardian"
6 means:

7 (1) a person who receives compensation for services as
8 a guardian to 5 or more persons with disabilities who are
9 not related to the guardian by blood or marriage; or

10 (2) a not-for-profit corporation qualified to act as
11 guardian under Section 11a-5, including that corporation's
12 officers, directors, employees, and agents.

13 "Private professional guardian" does not include a
14 government agency, the Office of State Guardian, a public
15 guardian, a corporation qualified to accept and execute trusts
16 in this State, or a financial institution as defined by
17 Section 2 of the Illinois Banking Act.

18 (b) A petitioner who nominates a private professional
19 guardian to be appointed as temporary, limited, or plenary
20 guardian for a person with a disability shall (i) attach an
21 affidavit to the petition for guardianship stating the
22 petitioner's efforts to contact the respondent's nearest
23 relatives as defined in subsection (e) of Section 11a-8, agent
24 under power of attorney, or other fiduciaries regarding the
25 respondent's need for a guardian, if known or reasonably

1 ascertainable, and (ii) provide notice of the petition for
2 guardianship to the public guardian. This subsection does not
3 apply if a family member of the respondent nominates a private
4 professional guardian.

5 (c) A private professional guardian may be appointed as
6 guardian if, in addition to meeting the requirements of
7 subsection (a) or (b) of Section 11a-5, that guardian complies
8 with the following requirements:

9 (1)(i) The private professional guardian will
10 personally meet with and assess the respondent before or
11 as soon as feasible after the appointment; (ii) evaluate
12 what is the least restrictive form of guardianship that is
13 appropriate; and (iii) evaluate options regarding the
14 respondent's living arrangements including
15 community-based, least restrictive living settings that
16 incorporate the respondent's values, preferences, and
17 known wishes.

18 (2) The president, director, or other corporate
19 officer of a not-for-profit corporation qualified to act
20 as guardian in accordance with subsection (b) of Section
21 11a-5 shall be named in the order appointing that private
22 professional guardian as guardian of a person with a
23 disability.

24 (3) A private professional guardian may not:

25 (i) have any direct or indirect beneficial
26 interest, financial or otherwise, in entities or

1 corporations that transact business with the estate or
2 receive benefits, including referral fees, from
3 persons, entities, or corporations that transact
4 business with the estate or on behalf of the person
5 under its guardianship, excluding any fixed salary
6 received from its employer;

7 (ii) own, acquire, or possess any pecuniary
8 interest adverse to the persons or estates under its
9 guardianship; or

10 (iii) on behalf of a person with a disability
11 under its guardianship, directly or indirectly
12 purchase, rent, lease, or sell any property or service
13 from or to any business entity in which the private
14 professional guardian, a spouse, or an immediate
15 family or household member is an owner, officer,
16 partner, director, shareholder, or retains a financial
17 interest.

18 (4) Within 2 years of the effective date of the
19 amendatory Act of the 104th General Assembly, a person or
20 the president, director, or chief executive officer of a
21 not-for-profit corporation who serves as a private
22 professional guardian shall be certified as a national
23 master guardian or a national certified guardian by the
24 Center for Guardianship Certification or its successor
25 organization. Within 2 years of the effective date of the
26 amendatory Act, employees of the private professional

1 guardian who are responsible for exercising the guardian's
2 powers and duties as guardian of a person with a
3 disability shall be certified as national certified
4 guardians by the Center for Guardianship Certification or
5 its successor organization.

6 (5) Use sound fiscal controls and policies in managing
7 the estates under its guardianship and, for a private
8 professional guardian that manages, in the aggregate, more
9 than \$1 million of assets as a guardian of persons with a
10 disability, arrange for an independent audit by a
11 qualified examiner of its financial records on an annual
12 basis. This report shall be made available to any court
13 presiding over any persons with disabilities for whom the
14 private professional guardian serves as guardian.

15 (6) File an annual sworn statement affirming continued
16 compliance with paragraph (3) of subsection (c) of this
17 Section.

18 (7) Maintain a current fee schedule that sets forth
19 information about its hourly rate, costs for its most
20 common and anticipated services such as case management,
21 social work, property management, and such other services
22 as may be appropriate. The fee schedule shall be provided
23 to the court before the appointment of the private
24 professional guardian as guardian of a person with a
25 disability.

26 (8) Upon presentation of its initial inventory and

1 with every annual account thereafter, file a budget with
2 the court that outlines the annual anticipated estate
3 expenses that also includes a statement estimating the
4 length of time the estate of the person with a disability
5 can afford the services of the private professional
6 guardian before the estate is depleted.

7 The private professional guardian shall promptly
8 notify the court at such time that it estimates the estate
9 of the person with a disability can no longer afford the
10 services of the private professional guardian or, if the
11 sale of respondent's residence would be required for the
12 continued services of a private professional guardian,
13 within 36 months or less. Upon providing the notification,
14 the private professional guardian shall also present a
15 transition plan for the guardianship of the person with a
16 disability.

17 (d) Upon appointment and annually thereafter, a private
18 professional guardian acting as temporary, limited, or plenary
19 guardian of a person with a disability shall file an affidavit
20 with the court stating that all of its officers, directors,
21 and employees who are responsible for exercising the
22 guardian's powers and duties as guardian of a person with a
23 disability have, within 5 years of the affidavit filing date,
24 undergone an Illinois State Police background check. This
25 background check shall include a State criminal history, a
26 national criminal history, and the Child Abuse and Neglect

1 Tracking System and be found to be in compliance with
2 paragraph (5) of subsection (a) of Section 11a-5. The private
3 professional guardian shall pay any fees and costs associated
4 with the background checks.

5 (e) In addition to taking into consideration the
6 requirements set forth in this Section and in Section 11a-12,
7 the court may appoint a private professional guardian as
8 guardian for a person with a disability only upon a finding
9 that the appointment is in the best interests of the person
10 with a disability, taking into consideration the respondent's
11 immediate need for timely medical decision-making including,
12 but not limited to, discharge planning and costs to the estate
13 in appointing a private professional guardian as compared to
14 other available and appropriate options.

15 (755 ILCS 5/23-2) (from Ch. 110 1/2, par. 23-2)

16 Sec. 23-2. Removal.

17 (a) On petition of any interested person or on the court's
18 own motion, the court may remove a representative if:

19 (1) the representative is acting under letters secured
20 by false pretenses;

21 (2) the representative is adjudged a person subject to
22 involuntary admission under the Mental Health and
23 Developmental Disabilities Code or is adjudged a person
24 with a disability;

25 (3) the representative is convicted of a felony;

1 (4) the representative wastes or mismanages the
2 estate;

3 (5) the representative conducts himself or herself in
4 such a manner as to endanger any co-representative or the
5 surety on the representative's bond;

6 (6) the representative fails to give sufficient bond
7 or security, counter security or a new bond, after being
8 ordered by the court to do so;

9 (7) the representative fails to file an inventory or
10 accounting after being ordered by the court to do so;

11 (8) the representative conceals himself or herself so
12 that process cannot be served upon the representative or
13 notice cannot be given to the representative;

14 (9) the representative becomes incapable of or
15 unsuitable for the discharge of the representative's
16 duties; ~~or~~

17 (10) the representative is a private professional
18 guardian that fails to comply with the requirements of
19 Section 11a-26; or

20 (11) ~~(10)~~ there is other good cause.

21 (b) If the representative becomes a nonresident of the
22 United States, the court may remove the representative as such
23 representative.

24 (Source: P.A. 99-143, eff. 7-27-15.)